

REMARKS

All pending claims stand rejected under 35 USC §102 as being anticipated by Robinson (U.S. 6,238,214). All claims also stand rejected under §103 over Robinson in view of other references.

Applicant requests that the rejections be withdrawn and that the finality of the office action be withdrawn for the simple reason that the Office Action's reading of the first independent claim and/or the Robinson reference are necessarily wrong.

The first independent claim presently pending, claim 42, clearly recites two distinct ends of an implant shaft. The first end has a mount for a device to be implanted, typically a tooth. This is structurally recited as "said first end having a mount for a device to be implanted." The shaft has an opposite end to which a base is attached. This is structurally recited as, "said second end being attached to a top surface of a base." Thereafter the base itself is structurally recited as being generally perpendicular to the shaft. Accordingly, the claims structurally recite the requirement that the tooth end and base end be opposite ends of the shaft.

The primary reference, the Robinson '214 patent, has a generally perpendicular structure relied upon in the office action to anticipate or render obvious the "base" of the currently pending claims. This appears at reference number 12 in Figure 11 of the reference as noted in the office action. Structure 12 also appears in Figures 4, 5, 9 and 14. These figures make clear that the perpendicular structure 12 is not at an opposite end of the shaft from the "tooth end" as claimed, but rather at the same end.

Because the reference and the structure recited in the claims teach the completely opposite positioning of the perpendicular "base" member, the '214 patent cannot anticipate the presently pending claims.

The text accompanying the drawings in Robinson makes clear that the plate 12 cited in the office action as teaching a perpendicular "base" is not a base. It is actually a "guided tissue regeneration plate 12". See Col. 6, l. 3-44. It goes on to teach that upon implantation (the opposing end of the shaft therein having no base and being implanted by axial insertion into the hole drilled for it, which is opposed to the teaching of the present application in which the implant is implanted laterally). The plate 12, at the tooth end of the shaft, is bent around to touch the gums in order to create a space 13 which is an "... area where new bone will grow, the space having been created by the guided tissue regeneration plate support and fixation system of the invention. The guided tissue regeneration plate support screw 11 is placed into the bony ridge 3. After the guided tissue regeneration plate 12 is affixed to the guided tissue regeneration plate support screw 11 by snapping it in place, the plate is molded into shape by bending the edges down as shown." See, Col. 2, l. 46-53. Thereafter the specification goes on to describe bone growing into the empty space created by the dentist bending the plate around from the tooth end of the implant shaft.

This does not teach anything remotely similar to the lateral implant base structure of the present invention. It does not teach, suggest or motivate a lateral implant with a substantially perpendicular base. Under KSR analysis it is not reciting a prior structure that is the same as the present invention. Even if it did, that structure would be

performing a radically different function than the function taught by the bendable "guided tissue regeneration" plate taught in the reference. Moreover, the reference teaches away.

Request for Withdrawal of Rejections and Finality

Because the primary reference relied upon in the office action can be seen to be clearly inapposite, applicant requests that the rejections be withdrawn and that a new final office action allowing all claims over the prior art of record be allowed, on the presumption that the search previously done was complete and that the inapposite '214 reference was the nearest art revealed in the search.

Conclusion

Applicants submit that the amendments herein put the claims in condition for allowance.

Respectfully submitted,



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